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REMARKS

**INTRODUCTION**

Claims 1-28 were previously pending and under consideration.

Claims 29 and 30 are added herein.

Therefore, claims 1-30 are now pending and under consideration.

Claims 1-28 are rejected.

Claims 1, 2, 11, 12, 17, 19 and 28 are objected to.

Claims 1-28 are amended herein.

No new matter is being presented, and approval and entry are respectfully requested.

**CLAIM OBJECTIONS**

Claims 1, 2, 11, 12, 17, 19 and 28 are objected to because of informalities. Appropriate corrections have been made without affecting the scope of the claims. Withdrawal of the objection is respectfully requested.

**REJECTIONS UNDER 35 USC § 112, SECOND PARAGRAPH**

In the Office Action, at page 2, claims 1, 12 and 19 were rejected under 35 U.S.C. § 112, second paragraph, for the reasons set forth therein. Appropriate amendments have been made without changing the scope of the claims. Withdrawal of the rejection is respectfully requested.

**REJECTIONS UNDER 35 USC § 103**

In the Office Action, at pages 3-8, claims 1-2 and 11 were rejected under 35 U.S.C. § 103 as being obvious over Adamson in view of Liu and Goertzel.

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Claim 3 was rejected under 35 U.S.C. § 103 as being obvious over Adamson, Goertzel and Liu, as applied to claim 2, in view of Pickering and further in view of Cloutier.

Claims 4-6 were rejected under 35 U.S.C. § 103 as being obvious over Adamson, Goertzel and Liu, as applied to claim 2, in view of Minnick.

Claim 10 was rejected under 35 U.S.C. § 103 as being obvious over Adamson, Goertzel and Liu, as applied to claim 2, in view of Lee.

Claims 12, 13, 16, and 17 were rejected under 35 U.S.C. § 103 as being obvious over Adamson in view of Goertzel, Liu, Balasubramaniam and Ansberry.

Claim 1, for example, recites "different application-layer communication methods... for users to communicate with one another above the network's transport layer at the network's application layer by the different methods". Claim 1 also recites storing the application-layer communication methods operable by a user's terminal. A list is generated "describing only application-layer communication methods that are each operable at both the destination user's information terminal and the source user's information terminal". The source user is allowed "to choose from the list a type of application-layer communication method which is operable by both users".

The independent claims are amended to clarify that the previously-recited "communication means" is simply a method of communication at the application layer of the network model. This clarification is supported in the specification at least by Figure 4, which shows e-mail, chat, instant messaging, and other communication applications. According to the Microsoft Computer Dictionary, a "layer" "is responsible for providing specific services or functions... generally the highest layer deals with software interactions at the application level". Furthermore, the OSI network model describes the application layer as a layer where program-to-program information is transferred.

In various places of the rejection, including at the bottom of page 4, the rejection compares the previous independent claims to a prior art combination, which the rejection summarizes as "negotiation of a list of protocols supported by both a client and a server... presenting a list to the client of communication types... to provide maximum communication ability by providing multiple channels over which communications can occur, which also provides a level of fault-tolerance encase one channel fails, and to also provide the user with flexibility to

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be able to choose the communication means that the user wants to use".

Applicant agrees that, if combined, the prior art references would disclose a list of network-level and/or data-link level protocols (e.g. TCP/IP, LRPC, at column 4, lines 52-55 of Goertzel; data path selection Liu), and possible selection therefrom, etc. However, the amended independent claims preclude comparison to a list of network-level protocols and or physical data paths, because network-level protocols and physical data paths are implemented at or below the transport layer, and clearly below the application-layer at which the communication methods of the present independent claims are implemented. Withdrawal of the rejection is respectfully requested.

Claim 1, for example, recites, "generating a list describing only application-layer communication methods that are each operable at both the destination user's information terminal and the source user's information terminal". In this way, a user choosing a method of communication will not be troubled with having to determine whether the remote communicant will be able to communicate using the particular chosen method of communication. None of the cited prior art references discuss or suggest that there might be a problem with selecting an application-layer communication method for communication between users. Withdrawal of the rejection is further respectfully requested.

Claim 1, for example, also recites "reporting the list to the source user before communication begins and allowing the source user to choose from the list". The rejection sites Goertzel as disclosing generation of a list describing types of communication means available based on the store communication means. However, Goertzel actually discloses selecting a communication protocol that is supported by both the client and the server. This selection is based on registered protocols of the server, and an indication of protocols supported by the client, where the indication of protocols is sent by the client to the communication process. Goertzel explicitly states that the communication process decides which network-level protocol should be used. Goertzel does not discuss "reporting the list to the source user before communication begins and allowing the source user to choose from the list". Furthermore, Liu discusses allowing a user to decide which data communication path should be chosen as the path connecting a user to the Internet based, for example, on data rate and cost. Withdrawal of the rejection is further respectfully requested.

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**DEPENDENT CLAIMS**

The dependent claims are deemed patentable due at least to their dependence from allowable independent claims. These claims are also patentable due to their recitation of independently distinguishing features. For example, claim 4 recites generating the list "based on the priority level of the application-layer communication methods actually usable by both the source user and the destination user". This feature is not taught or suggested by the prior art. Withdrawal of the rejection of the dependent claims is respectfully requested.

**CONCLUSION**

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS &amp; HALSEY LLP

Date:

August 30, 2004

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**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that this correspondence is being transmitted via facsimile to: Commissioner for Patents,  
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on August 30, 2004  
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By: J. T. Strom, Anderson  
Date: August 30, 2004